



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,744	06/29/2001	Regis J. Crinon	042390P11553	1043

7590

08/10/2005

James H. Salter  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP  
Seventh Floor  
12400 Wilshire Boulevard  
Los Angeles, CA 90025-1026

EXAMINER

SHANNON, MICHAEL R

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/895,744

Applicant(s)

CRINON ET AL.

Examiner

Michael R. Shannon

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20020220.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-12 and 15-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Russo (USP 5,619,247), cited by Examiner.

Regarding claim 1, the claimed “method” is met as follows:

- The claimed step of “receiving information obtained from at least one of a consumer and a storage area” is met by the inherent reception of viewer preferences at the subscriber-operated storage-management facilities [col. 3, lines 12-16]. The communications link 12 may supply interaction with the cable system billing and/or ordering facilities, for input from the viewer or the viewer preferences (automatic selection) to instruct transmission and downloading of the selected program material [col. 3, lines 59-62].
- The claimed step of “selecting, substantially automatically, multimedia-content to be broadcast to the consumer based on said receiving” is, again, met by the subscriber-operated storage-management facilities, which are broadcast to and stored at the user device based on the user selection of the program or the automatic selection based on viewer preferences [col. 3, lines 12-16].

Regarding claim 2, the claimed “method of claim 1, wherein a selection of the multimedia-content is made contemporaneous with the information obtained from at least one of the consumer and the storage area” is met by the “selected program materials” [col. 4, line 10], which are decided by the consumer (through interactive selection) or the automatic selection based on viewer preferences and records of which programs the subscriber has actually replayed [col. 3, lines 12-28].

Regarding claim 3, the claimed “method of claim 1, wherein the multimedia-content is at least one of video, audio, and data” is met by the discussion that the content can be in the form of video or audio, or a combination of both [col. 6, line 63 – col. 7, line 3].

Regarding claim 4, the claimed “method of claim 1, further comprising scheduling the multimedia-content to be broadcast to the consumer based on said selecting” is met by the scheduling of the transmission of the video or audio content based upon viewer or listener preference and/or the direct selection by the user [col. 7, lines 12-23].

Regarding claim 5, the claimed “method of claim 4, wherein said scheduling is based on criteria” is met by the fact that the automatic downloading takes place based on viewing preferences or program provider decisions [col. 9, line 61 – col. 10, line 1].

Regarding claim 6, the claimed “method of claim 5, wherein the criteria includes consideration of at least one of; whether the multimedia-content has been consumed yet; how many times the multimedia-content has been consumed; whether the multimedia-content has been deleted or tagged for deletion; if the multimedia-content is still in the storage area; whether the multimedia-content is intended to be

Art Unit: 2614

saved/archived; and whether the storage area is categorized” is met by the recording of desired material based on a viewing preference of categories and whether or not programs have been deleted [col. 4, lines 45-67].

Regarding claim 7, the claimed “method of claim 1, wherein said receiving is accomplished with at least one of a telephone, a dial-up modem, a cable television vision communication, a network, the Internet, and a wireless communication” is met by the communications link 12, which could be a telecommunications link over a standard telephone line, not to mention other possibilities for the connection [col. 9, lines 11-23].

Regarding claim 8, the claimed “computer readable medium containing executable program instructions, which when executed by a data processing system, cause the data processing system to perform the steps comprising selecting substantially automatically, multimedia-content to be broadcast to a consumer, based on information obtained from at least one of the consumers and a storage area” is met by the “selected program materials” [col. 4, line 10], which are decided by the consumer (through interactive selection) or the automatic selection based on viewer preferences and records of which programs the subscriber has actually replayed [col. 3, lines 12-28]. Also, the scheduling of the transmission of the video or audio content based upon viewer or listener preference and/or the direct selection by the user is discussed in column 7, lines 12-23.

Regarding claim 9, the claimed “computer readable medium of claim 8, further comprising scheduling multimedia-content to be broadcast to the consumer based on said selecting” is met by the scheduling of the transmission of the video or audio content

Art Unit: 2614

based upon viewer or listener preference and/or the direct selection by the user [col. 7, lines 12-23].

Regarding claim 10, the claimed "computer readable medium of claim 8, further comprising receiving the information from at least one of the consumer and the storage area" is met by the "selected program materials" [col. 4, line 10], which are decided by the consumer (through interactive selection) or the automatic selection based on viewer preferences and records of which programs the subscriber has actually replayed [col. 3, lines 12-28].

Regarding claim 11, the claimed "method" is met as follows:

- The claimed step of "receiving a selection of multimedia content" is met by the user selection of the program or the automatic selection based on viewer preferences [col. 3, lines 12-16] being received at the subscriber-operated storage-management facilities.
- The claimed step of "broadcasting the selection of the multimedia-content to a consumer, wherein the selection is based on information obtained from at least one of the consumer and a storage area" is met by the scheduling of the transmission of the video or audio content based upon viewer or listener preference and/or the direct selection by the user [col. 7, lines 12-23].

Regarding claim 12, the claimed "method of claim 11, wherein the selection of the multimedia-content is made contemporaneous with the information obtained from the consumer" is met by the "selected program materials" [col. 4, line 10], which are

Art Unit: 2614

decided by the consumer (through interactive selection) or the automatic selection based on viewer preferences and records of which programs the subscriber has actually replayed [col. 3, lines 12-28].

Regarding claim 15, the claimed "method of claim 11, wherein the multimedia-content is at least one of video, audio, and data" is met by the discussion that the content can be in the form of video or audio, or a combination of both [col. 6, line 63 – col. 7, line 3].

Regarding claim 16, the claimed "method" is met as follows:

- The claimed step of "transferring multimedia content to a storage area, accessible to a consumer's television system" is met by the scheduling of the transmission of the video or audio content based upon viewer or listener preference and/or the direct selection by the user [col. 7, lines 12-23] for later access for viewing and/or listening by the subscriber.
- The claimed step of "managing the multimedia-content stored in the storage area" is met by the subscriber-operated storage-management facility, which decides materials are to be recorded and which programs are to be deleted [col. 3, lines 12-28].

Regarding claim 17, the claimed "method of claim 16, wherein the multimedia-content is at least one of video, audio, and data" is met by the discussion that the content can be in the form of video or audio, or a combination of both [col. 6, line 63 – col. 7, line 3].

Regarding claim 18, the claimed "method of claim 16, wherein said managing is based on a policy" is met by the fact that the automatic downloading takes place based on viewing preferences or program provider decisions [col. 9, line 61 – col. 10, line 1].

Regarding claim 19, the claimed "method of claim 18, wherein the policy includes consideration of at least one of; whether the multimedia-content has been consumed yet; how many times the multimedia-content has been consumed; whether the multimedia-content has been deleted or tagged for deletion; if the multimedia-content is still in the storage area; whether the multimedia-content is intended to be saved/archived; and whether the storage area is categorized" is met by the recording of desired material based on a viewing preference of categories and whether or not programs have been deleted [col. 4, lines 45-67].

Regarding claim 20, the claimed "computer readable medium containing executable program instructions, which when executed by a data processing system, cause the data processing system to perform the steps comprising managing multimedia-content stored in a storage area accessible to a consumer's digital television system" is met by the subscriber-operated storage-management facility, which decides materials are to be recorded and which programs are to be deleted [col. 3, lines 12-28]. The programs can be viewed in real-time or in the future using the attached television.

Regarding claim 21, the claimed "computer readable medium of claim 20, wherein said managing is based on a policy" is met by the fact that the automatic downloading takes place based on viewing preferences or program provider decisions [col. 9, line 61 – col. 10, line 1].



Regarding claim 22, the claimed “computer readable medium of claim 20, wherein the multimedia-content is at least one of video, audio, and data” is met by the discussion that the content can be in the form of video or audio, or a combination of both [col. 6, line 63 – col. 7, line 3].

Regarding claim 23, the claimed “apparatus” is met as follows:

- The claimed “digital television receiver” is met by the receiver pictures in Figure 2, which can receive digital or analog audio or video signals via line 102.
- The claimed “storage area to store multimedia-content; wherein the multimedia-content is selected based on information obtained from at least one of a consumer and said storage area” is met by the High-Capacity Storage 110, which can work with the subscriber-operated storage-management facilities to receive the broadcast and store it at the user device based on the user selection of the program or the automatic selection based on viewer preferences [col. 3, lines 12-16].

Regarding claim 24, the claimed “apparatus of claim 23, wherein the multimedia-content is selected contemporaneously with the information obtained from at least one of the consumer and said storage area” is met by the “selected program materials” [col. 4, line 10], which are decided by the consumer (through interactive selection) or the automatic selection based on viewer preferences and records of which programs the subscriber has actually replayed [col. 3, lines 12-28].

Art Unit: 2614

Regarding claim 25, the claimed "apparatus of claim 23, wherein the multimedia-content is at least one of video, audio, and data" is met by the discussion that the content can be in the form of video or audio, or a combination of both [col. 6, line 63 – col. 7, line 3].

Regarding claim 26, the claimed "apparatus" is met as follows:

- The claimed "multimedia-content selector to select multimedia-content, substantially automatically, to be broadcast to a consumer, based on information obtained from at least one of the consumer and a storage area" is met by the "selected program materials" [col. 4, line 10], which are decided by the consumer (through interactive selection) or the automatic selection based on viewer preferences and records of which programs the subscriber has actually replayed [col. 3, lines 12-28].

Regarding claim 27, the claimed "apparatus of claim 26, further comprising: a multimedia content scheduler, configured to communicate with said multimedia-content selector, to schedule the multimedia-content to be broadcast to the consumer" is met by the scheduling of the transmission of the video or audio content based upon viewer or listener preference and/or the direct selection by the user [col. 7, lines 12-23].

Regarding claim 28, the claimed "apparatus of claim 26, further comprising: a processor configured to receive the information and execute instructions that select the multimedia-content to be broadcast to the consumer; and a storage area configured to allow communication with said processor" is met by the fact that the system is a VOD pay-per-play system, which inherently means that the recording selections (as

Art Unit: 2614

discussed above) are chosen from some sort of storage at the server based on user selection or preferences. Also, in an alternate embodiment, the storage device could be located at a centralized distribution facility, such as the cable provider [col. 3, lines 25-28].

Regarding claim 29, the claimed "apparatus of claim 26, further comprising: a multimedia-content data base server, to store new multimedia-content, some of which is selected to be broadcast to the consumer", is, again met by the fact that the system is a VOD pay-per-play system, which inherently means that the recording selections (as discussed above) are chosen from some sort of storage at the server based on user selection or preferences. Also, in an alternate embodiment, the storage device could be located at a centralized distribution facility, such as the cable provider [col. 3, lines 25-28]. Column 10, lines 1-2 disclose that a new first-run movie may be available for download automatically by the provider.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo (USP 5,619,247), cited by Examiner.

Regarding claim 13, the Russo reference teaches all of that which is discussed above with regards to claim 11. However, Russo is silent as to the broadcasting protocol used. Claim 13 states, "The method of claim 11, wherein said broadcasting is accomplished using opportunistic insertion of data". The Examiner takes OFFICIAL NOTICE that it is notoriously well known in the art to use opportunistic insertion of data for broadcasting at a variable data rate for transmission of video programs over standard mediums. The Applicant goes as far as to admit that "the multimedia-content may be multiplexed onto existing channels and sent at a variable data rate using a technique known in the art as opportunistic insertion of data (OID)" [paragraph 0035 of initial disclosure]. As per this admission that OID is known in the art, the Examiner submits that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to utilize OID in an attempt to transmit programming according to a common protocol and a common technique known in the art.

Regarding claim 14, the Russo reference teaches all of that which is discussed above with regards to claim 11. However, Russo is silent as to the broadcasting protocol used. Claim 14 states, "The method of claim 11, wherein said broadcasting is accomplished with a substantially dedicated channel having a fixed transmission bandwidth". The Examiner takes OFFICIAL NOTICE that it is notoriously well known in the art to use a dedicated channel having a fixed transmission bandwidth for transmission of video programs over standard mediums. Therefore, the Examiner submits that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to utilize a dedicated channel having a fixed transmission

Art Unit: 2614

bandwidth for delivering programming in an attempt to transmit programming according to a common protocol and a common technique known in the art, such that the transmission time could be lessened and the content could be delivered more quickly using dedicated channels.

### ***Drawings***

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 206, 300, 400, 510T, 511T, 512T, 514T, and 864. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the requirements of 37 CFR 1.84(l) were not met, namely, the drawings will not result in satisfactory reproduction due to insufficiently defined lines and

Art Unit: 2614

characters. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Specification***

7. The disclosure is objected to because of the following informalities:

Paragraph 0004, lines 1 contains an obvious typographical error, "CATC" should be corrected to read "CATV".

Paragraph 0034, line 6 contains another obvious typographical error, "12ba" should be corrected to read "216a".

Appropriate correction is required.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael R. Shannon who can be reached at (571) 272-7356 or Michael.Shannon@uspto.gov. The examiner can normally be reached by phone Monday through Friday 8:00 AM – 5:00PM, with alternate Friday's off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at (571) 272-7353.

**Any response to this action should be mailed to:**

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

Art Unit: 2614

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Effective January 14, 2005, except correspondence for Maintenance Fee payments, Deposit Account Replenishments (see 1.25(c)(4)), and Licensing and Review (see 37 CFR 5.1(c) and 5.2(c)), please address correspondence to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, etc.) as follows:

United States Patent and Trademark Office  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Some correspondence may be submitted electronically. See the Office's Internet Web site <http://www.uspto.gov> for additional information.

**Or faxed to: (571) 273-8300**

**Hand-delivered responses should be brought to:**

Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **(571) 272-2600**.

Michael R Shannon  
Examiner  
Art Unit 2614

Michael R Shannon  
August 5, 2005

  
**JOHN MILLER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**